

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

## HOUSE ENROLLED ACT No. 1218

AN ACT to amend the Indiana Code concerning labor and industrial safety.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 4-22-2-37.1, AS AMENDED BY HEA 1813-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 37.1. (a) This section applies to a rulemaking action resulting in any of the following rules:

- (1) An order adopted by the commissioner of the Indiana department of transportation under IC 9-20-1-3(d) or IC 9-21-4-7(a) and designated by the commissioner as an emergency rule.
- (2) An action taken by the director of the department of natural resources under IC 14-22-2-6(d) or IC 14-22-6-13.
- (3) An emergency temporary standard adopted by the occupational safety standards commission under IC 22-8-1.1-16.1.
- (4) An emergency rule adopted by the solid waste management board under IC 13-22-2-3 and classifying a waste as hazardous.
- (5) A rule, other than a rule described in subdivision (6), adopted by the department of financial institutions under IC 24-4.5-6-107 and declared necessary to meet an emergency.
- (6) A rule required under IC 24-4.5-1-106 that is adopted by the department of financial institutions and declared necessary to meet an emergency under IC 24-4.5-6-107.
- (7) A rule adopted by the Indiana utility regulatory commission to



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address an emergency under IC 8-1-2-113.

(8) An emergency rule jointly adopted by the water pollution control board and the budget agency under IC 13-18-13-18.

(9) An emergency rule adopted by the state lottery commission under IC 4-30-3-9.

(10) A rule adopted under IC 16-19-3-5 that the executive board of the state department of health declares is necessary to meet an emergency.

(11) An emergency rule adopted by the Indiana transportation finance authority under IC 8-21-12.

(12) An emergency rule adopted by the insurance commissioner under IC 27-1-23-7.

(13) An emergency rule adopted by the Indiana horse racing commission under IC 4-31-3-9.

(14) An emergency rule adopted by the air pollution control board, the solid waste management board, or the water pollution control board under IC 13-15-4-10(4) or to comply with a deadline required by federal law, provided:

(A) the variance procedures are included in the rules; and

(B) permits or licenses granted during the period the emergency rule is in effect are reviewed after the emergency rule expires.

(15) An emergency rule adopted by the Indiana election commission under IC 3-6-4.1-14.

(16) An emergency rule adopted by the department of natural resources under IC 14-10-2-5.

(17) An emergency rule adopted by the Indiana gaming commission under IC 4-33-4-2, IC 4-33-4-3, or IC 4-33-4-14.

(18) An emergency rule adopted by the alcohol and tobacco commission under IC 7.1-3-17.5, IC 7.1-3-17.7, or IC 7.1-3-20-24.4.

(19) An emergency rule adopted by the department of financial institutions under IC 28-15-11.

(20) An emergency rule adopted by the office of the secretary of family and social services under IC 12-8-1-12.

(21) An emergency rule adopted by the office of the children's health insurance program under IC 12-17.6-2-11.

(22) An emergency rule adopted by the office of Medicaid policy and planning under IC 12-15-41-15.

(23) An emergency rule adopted by the Indiana state board of animal health under IC 15-2.1-18-21.

(24) An emergency rule adopted by the board of directors of the

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Indiana education savings authority under IC 21-9-4-7.

(25) An emergency rule adopted by the Indiana board of tax review under IC 6-1.1-4-34.

(26) An emergency rule adopted by the department of local government finance under IC 6-1.1-4-33.

**(27) An emergency rule adopted by the boiler and pressure vessel rules board under IC 22-13-2-8(c).**

(b) The following do not apply to rules described in subsection (a):

(1) Sections 24 through 36 of this chapter.

(2) IC 13-14-9.

(c) After a rule described in subsection (a) has been adopted by the agency, the agency shall submit the rule to the publisher for the assignment of a document control number. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The publisher shall determine the number of copies of the rule and other documents to be submitted under this subsection.

(d) After the document control number has been assigned, the agency shall submit the rule to the secretary of state for filing. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The secretary of state shall determine the number of copies of the rule and other documents to be submitted under this subsection.

(e) Subject to section 39 of this chapter, the secretary of state shall:

(1) accept the rule for filing; and

(2) file stamp and indicate the date and time that the rule is accepted on every duplicate original copy submitted.

(f) A rule described in subsection (a) takes effect on the latest of the following dates:

(1) The effective date of the statute delegating authority to the agency to adopt the rule.

(2) The date and time that the rule is accepted for filing under subsection (e).

(3) The effective date stated by the adopting agency in the rule.

(4) The date of compliance with every requirement established by law as a prerequisite to the adoption or effectiveness of the rule.

(g) Subject to subsection (h), IC 14-10-2-5, IC 14-22-2-6, **and IC 22-8-1.1-16.1, and IC 22-13-2-8(c)**, a rule adopted under this section expires not later than ninety (90) days after the rule is accepted for filing under subsection (e). Except for a rule adopted under subsection (a)(14), the rule may be extended by adopting another rule under this section, but only for one (1) extension period. A rule adopted

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under subsection (a)(14) may be extended for two (2) extension periods. Except for a rule adopted under subsection (a)(14), for a rule adopted under this section to be effective after one (1) extension period, the rule must be adopted under:

- (1) sections 24 through 36 of this chapter; or
- (2) IC 13-14-9;

as applicable.

(h) A rule described in subsection (a)(6), (a)(9), or (a)(13) expires on the earlier of the following dates:

- (1) The expiration date stated by the adopting agency in the rule.
- (2) The date that the rule is amended or repealed by a later rule adopted under sections 24 through 36 of this chapter or this section.

(i) This section may not be used to readopt a rule under IC 4-22-2.5.

SECTION 2. IC 22-12-1-4, AS AMENDED BY P.L.2-2002, SECTION 72, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) "Class 1 structure" means any part of the following:

(1) A building or structure that is intended to be or is occupied or otherwise used in any part by any of the following:

- (A) The public.
- (B) Three (3) or more tenants.
- (C) One (1) or more persons who act as the employees of another.

(2) A site improvement affecting access by persons with physical disabilities to a building or structure described in subdivision (1).

(3) Any class of buildings or structures that the commission determines by rules to affect a building or structure described in subdivision (1), except buildings or structures described in subsections (c) through ~~(e)~~ (f).

(b) Subsection (a)(1) includes a structure that contains three (3) or more condominium units (as defined in IC 32-25-2-9) or other units that:

- (1) are intended to be or are used or leased by the owner of the unit; and
- (2) are not completely separated from each other by an unimproved space.

(c) Subsection (a)(1) does not include a building or structure that:

- (1) is intended to be or is used only for an agricultural purpose on the land where it is located; and
- (2) is not used for retail trade or is a stand used for retail sales of farm produce for eight (8) or less consecutive months in a

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calendar year.

(d) Subsection (a)(1) does not include a Class 2 structure.

(e) Subsection (a)(1) does not include a vehicular bridge.

**(f) Subsection (a)(1) does not include a structure that is intended to be or is occupied solely to provide periodic maintenance or repair of:**

**(1) the structure; or**

**(2) mechanical or electrical equipment located within and affixed to the structure.**

SECTION 3. IC 22-12-1-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16. "Manufactured home" has the meaning set forth in 42 U.S.C. 5402 as it existed on January 1, ~~1984~~ **2003**.

SECTION 4. IC 22-12-4.5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) The term of a member is three (3) years. A member continues to serve until the member's successor is appointed. ~~or until sixty (60) days have elapsed since the member's term expired, whichever occurs first.~~

(b) The appointing authority may remove a member of the board for inefficiency or neglect of duty.

(c) If a vacancy occurs on the board, an individual appointed to fill the vacancy serves the unexpired term of the vacating member.

~~(d) An appointed member of the board may serve not more than three (3) consecutive terms. If the member was appointed to fill a vacancy under subsection (c), the part of an unexpired term filled by the member is not included in calculating a member's length of service under this subsection.~~

SECTION 5. IC 22-12-4.5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) The board shall meet at least ~~biannually~~ **quarterly**.

(b) A quorum of the board consists of six (6) members. The affirmative votes of at least six (6) members of the board are required for the board to take action.

SECTION 6. IC 22-12-6-3, AS AMENDED BY P.L.3-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) The statewide fire and building safety education fund is established to provide money to:

(1) local fire and building inspection departments for enrollment in education and training programs approved by the department; ~~and~~

**(2) the office of the state building commissioner and the office of the state fire marshal for enrollment in education and**

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**training programs approved by the department; and**

**(3) the office of the state fire marshal department** for the sponsoring of training conferences.

(b) The department shall administer the fund. The director of the division of education and information shall distribute money from the fund in accordance with the rules adopted under IC 4-22-2 by the commission.

(c) The fund consists of:

- (1) money allocated under section 6(d) of this chapter; and
- (2) fees collected under subsection (e).

(d) Money in the fund at the end of a fiscal year does not revert to the state general fund.

(e) The ~~office of the state fire marshal department~~ may charge a fee for a person's participation in a training conference. The ~~office of the state fire marshal department~~ shall deposit the fees collected under this subsection in the fund. The ~~state fire marshal department~~ shall pay all expenses associated with training conferences out of the fund.

SECTION 7. IC 22-12-7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. The appropriate person under section 1 of this chapter shall issue the following orders under IC 4-21.5-3-6:

- (1) An order requiring a person to cease and correct any violation of law.
- (2) An order that imposes a sanction described in section 7(4) or 7(5) of this chapter or that imposes a requirement under ~~IC 22-14-4-2~~ **IC 35-47.5-4-2**.
- (3) Any other enforcement order.

SECTION 8. IC 22-12-7-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. An order under IC 4-21.5-3-6 or IC 4-21.5-4 may include the following, singly or in combination:

- (1) Require a person who has taken a substantial step toward violating a law or has violated a law to cease and correct the violation.
- (2) Require a person who has control over property that is affected by a violation to take reasonable steps to:
  - (A) protect persons and property from the hazards of the violation; and
  - (B) correct the violation.
- (3) Require persons to leave an area that is affected by a violation and prohibit persons from entering the area until the violation is corrected.



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(4) Impose any of the following sanctions with respect to a permit, registration, certification, release, authorization, variance, exemption, or other license issued by a person described in section 1 of this chapter:

- (A) Permanently revoke the license.
- (B) Suspend the license.
- (C) Censure the person to whom the license is issued.
- (D) Issue a letter of reprimand to a person to whom the license is issued.
- (E) Place a person to whom the license is issued on probation.

**(5) Impose on a person who has violated a law that may be enforced by the department a civil penalty not to exceed two hundred fifty dollars (\$250) for each day the violation occurs.**

SECTION 9. IC 22-13-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) The commission shall adopt rules under IC 4-22-2 to create equipment laws applicable to regulated lifting devices.

(b) **Except as provided in subsection (c)**, subject to the approval of the commission, the rules board shall adopt rules under IC 4-22-2 to create equipment laws applicable to regulated boilers and pressure vessels.

(c) **Subject to the approval of the commission, the rules board may adopt emergency rules under IC 4-22-2-37.1 only to adopt by reference all or part of the following national boiler and pressure vessel codes:**

- (1) The American Society of Mechanical Engineers Boiler and Pressure Vessel Code.**
- (2) The National Board of Boiler and Pressure Vessel Inspectors Inspection Code.**
- (3) The American Petroleum Institute 510 Pressure Vessel Inspection Code.**
- (4) Any subsequent editions of the codes listed in subdivisions (1) through (3).**

**(d) An emergency rule adopted under subsection (c) expires on the earlier of the following dates:**

- (1) Not more than two (2) years after the emergency rule is accepted for filing with the secretary of state.**
- (2) The date a permanent rule is adopted under IC 4-22-2.**

(e) Subject to the approval of the commission, the regulated amusement device safety board established under IC 22-12-4.5 shall adopt rules under IC 4-22-2 to create equipment laws applicable to regulated amusement devices.



SECTION 10. IC 22-13-2-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. (a) The commission, ~~or~~ the rules board, **or the regulated amusement device safety board established by IC 22-12-4.5-2** may grant a variance to a rule that it has adopted.

(b) To qualify for a variance, an applicant must pay the fee set under IC 22-12-6-6 and submit facts demonstrating that:

(1) compliance with the rule will impose an undue hardship upon the applicant or prevent the preservation of an architecturally significant or historically significant part of a building or other structure; and

(2) either:

(A) noncompliance with the rule; or

(B) compliance with an alternative requirement approved by the body adopting the rule;

will not be adverse to the public health, safety, or welfare.

(c) A variance granted under this section is conditioned upon compliance with an alternative standard approved under subsection (b)(2)(B).

(d) A variance granted under this section takes precedence over conflicting rules adopted by a state agency and conflicting ordinances and other regulations adopted by a political subdivision.

SECTION 11. IC 22-13-2.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. The commission is not required to comply with section 2 of this chapter if a proposed rule constitutes:

(1) the adoption or incorporation by reference of a federal statute, regulation, or rule that:

(A) is or will be applicable to Indiana; and

(B) contains no amendments that have a substantive effect on the scope or intended application of the federal statute, regulation, or rule;

(2) a technical amendment or revision that makes no substantive change in an existing rule; ~~or~~

(3) a substantive amendment to an existing rule that has the primary and intended purpose of clarifying the existing rule; **or**

**(4) an emergency rule adopted under IC 22-13-2-8(c).**

SECTION 12. IC 22-15-4-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) For purposes of this section, a reference to 42 U.S.C. 5409 refers to that section as it existed on January 1, ~~1984~~ **2003**.

(b) As used in this section, "purchaser" means the first person

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purchasing a manufactured home in good faith for purposes other than resale.

(c) A person who violates 42 U.S.C. 5409, or any ~~rule regulation~~ or final order issued under 42 U.S.C. 5409, ~~commits a Class C infraction.~~ **is liable to the department for a civil penalty not to exceed one thousand dollars (\$1,000) for each violation.** Each violation of 42 U.S.C. 5409, or any ~~rule regulation~~ or final order issued under 42 U.S.C. 5409, constitutes a separate violation with respect to:

- (1) each manufactured home; or
- (2) ~~with respect to~~ each failure or refusal to allow or perform an act required by ~~this chapter~~ **42 U.S.C. 5409** or a ~~rule regulation~~ or order issued under ~~this chapter~~ **42 U.S.C. 5409.**

However, the maximum judgment imposed under this subsection may not exceed one million dollars (\$1,000,000) for any related series of violations occurring within one (1) year after the date of the first violation.

(d) **The department may recover the civil penalty described in subsection (c) in a civil action commenced in any court with jurisdiction.**

(e) **Notwithstanding IC 35-50-3-2,** an individual or a director, an officer, or ~~an~~ agent of a corporation who knowingly violates 42 U.S.C. 5409 in a manner that threatens the health or safety of any purchaser commits a Class A misdemeanor **and shall be fined not more than one thousand dollars (\$1,000) dollars or imprisoned not more than one (1) year, or both.**

SECTION 13. IC 22-15-5-7, AS ADDED BY P.L.119-2002, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) **After May 1, 2003,** an individual may not act as an elevator contractor unless the individual:

- (1) holds an elevator contractor license issued under this chapter; or
- (2) is an employee of a partnership, a limited partnership, a corporation, or an educational institution that holds an elevator contractor license issued under this chapter.

(b) **After May 1, 2003,** a partnership, a limited partnership, a corporation, or an educational institution may not act as an elevator contractor unless it holds an elevator contractor license issued under this chapter.

(c) An individual who is an applicant for an elevator contractor license shall:

- (1) hold a valid elevator contractor license issued by another state that has a licensing program that, as determined by the

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department or the commission, is equivalent to the elevator contractor licensing program established under this chapter; or  
 (2) except as otherwise provided, satisfy both of the following requirements:

(A) Have at least five (5) years of documented work experience in the elevator industry in construction, maintenance, and service or repair in Indiana.

(B) Successfully complete a written competency examination approved by the commission.

An applicant for an elevator contractor license is entitled to a license without examination if the applicant applies for the license on or before ~~March~~ **May** 1, 2003.

(d) A corporation or an educational institution that is an applicant for an elevator contractor license must have at least one (1) officer or employee of the corporation or an educational institution that holds a valid elevator contractor license issued under this chapter. A license granted to a corporation or an educational institution to act as an elevator contractor under this chapter becomes invalid when an officer or employee of the corporation or educational institution no longer holds a valid elevator contractor license issued under this chapter.

(e) A partnership or limited partnership that is an applicant for an elevator contractor license must have at least one (1) partner or general partner that holds a valid elevator contractor license issued under this chapter. A license granted to a partnership or limited partnership to act as an elevator contractor under this chapter becomes invalid when the partner of a partnership or general partner of a limited partnership named in the application no longer holds a valid elevator contractor license as provided by this chapter.

SECTION 14. IC 22-15-5-11, AS ADDED BY P.L.119-2002, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) **After May 1, 2003**, an individual may not act as an elevator inspector unless the individual holds an elevator inspector license issued under this chapter.

(b) An individual who is an applicant for an elevator inspector license shall meet the standards set forth in American Society of Mechanical Engineers (ASME) American National Standard QEI-1 (Standard for the Qualification of Elevator Inspectors) or other nationally accepted standard qualifying authority that the commission has determined has equivalent requirements as ASME QEI-1 for obtaining and retaining certification.

(c) An applicant for an initial elevator inspector license must do the following:



- (1) Submit to the department an application provided by the department that contains the following information:
    - (A) The name, address, telephone number, and electronic mail address of the applicant.
    - (B) Any other information the department requires.
  - (2) Submit to the department any proof of eligibility the department requires.
  - (3) Demonstrate proof of insurance as required by section 14 of this chapter.
  - (4) Pay the license fee established under IC 22-12-6-6. The license fee is nonrefundable and must be paid each time an applicant submits an application.
  - (5) Affirm under penalty of perjury that all information provided to the department is true to the best of the applicant's knowledge and belief.
- (d) An applicant for a renewal elevator inspector license shall:
- (1) Submit to the department an application provided by the department that contains the following information:
    - (A) The name, address, telephone number, and electronic mail address of the applicant.
    - (B) Any other information the department requires.
  - (2) Submit proof of completion of the continuing education required by section 15 of this chapter.
  - (3) Demonstrate proof of insurance as required by section 14 of this chapter.
  - (4) Pay the license fee established under IC 22-12-6-6. The license fee is nonrefundable and must be paid each time an applicant submits an application.
  - (5) Affirm under penalty of perjury that all information provided to the department is true to the best of the applicant's knowledge and belief.
- (e) An initial elevator inspector license issued under this chapter expires on December 31 of the second year after the license was issued.
- (f) A renewal of an elevator inspector license is valid for two (2) years.
- (g) An individual who engages in the business of an elevator inspector shall carry the individual's license and present the license for inspection by a representative of the department upon request.
- (h) If the QEI-I certification or other certification standard approved by the commission that made the individual eligible for an inspector license under subsection (b):
- (1) is terminated;

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- (2) expires; or
  - (3) becomes invalid for any other reason;
- the elevator inspector's license immediately becomes invalid.

SECTION 15. IC 22-15-5-12, AS ADDED BY P.L.119-2002, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) **After May 1, 2003**, an individual may not act as an elevator mechanic unless the individual holds an elevator mechanic license issued under this chapter. A license is not required for an elevator apprentice.

(b) An individual who is an applicant for an elevator mechanic license must meet one (1) of the following eligibility criteria:

- (1) Hold an active elevator mechanic license issued by a state that has a licensing program that is at least equivalent to the elevator mechanic licensing program established under this chapter.
- (2) Satisfy both of the following:
  - (A) Have at least one (1) of the following types of work experience or training:
    - (i) Have at least three (3) years of documented work experience in the elevator industry in construction, maintenance, and service or repair.
    - (ii) Have at least eighteen (18) months experience in the elevator industry in construction, maintenance, and service or repair and have at least three (3) years experience in a related field that is certified by a licensed elevator contractor.
    - (iii) Complete an apprenticeship program that is registered with the Bureau of Apprenticeship and Training of the United States Department of Labor or a state apprenticeship program and that the commission determines is at least equivalent to three (3) years of work experience in the elevator industry in construction, maintenance, and service or repair.
  - (B) Successfully complete a written competency examination approved by the commission.
- (3) Successfully complete an elevator mechanic's program that consists of a combination of extensive training and a comprehensive examination that the commission has determined is at least equivalent to both the work experience required under subdivision (2)(A)(i) and the competency examination established under subdivision (2)(B).
- (4) Furnish acceptable proof to the department of:
  - (A) at least three (3) years work experience in the elevator

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industry in construction, maintenance, service or repair; and  
 (B) current performance of the duties of an elevator mechanic  
 in Indiana without direct supervision;

and apply for the license on or before ~~March~~ **May** 1, 2003.

(c) An applicant for an initial elevator mechanic license must do the following:

(1) Submit to the department an application provided by the department that contains the following information:

(A) The name, business address, telephone number, and electronic mail address of the applicant.

(B) Any other information the department requires.

(2) Submit to the department any proof of eligibility the department requires.

(3) Pay the nonrefundable and nontransferable license fee established under IC 22-12-6-6.

(4) Affirm under penalty of perjury that all information provided to the department is true to the best of the applicant's knowledge and belief.

(d) An applicant for a renewal elevator mechanic license must do the following:

(1) Submit to the department an application provided by the department that contains the following information:

(A) The name, business address, telephone number, and electronic mail address of the applicant.

(B) Any other information the department requires.

(2) Submit proof of completion of the continuing education required by section 15 of this chapter.

(3) Pay the nonrefundable and nontransferable license fee established under IC 22-12-6-6.

(4) Affirm under penalty of perjury that all information provided to the department is true to the best of the applicant's knowledge and belief.

(e) An initial elevator mechanic license issued under this chapter expires on December 31 of the second year after the license was issued.

(f) A renewal of an elevator mechanic license is valid for two (2) years.

(g) An individual engaged in the business of an elevator mechanic shall carry the individual's license and present the license for inspection by a representative of the department upon request.

SECTION 16. IC 22-15-6-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 0.5. This chapter applies to a**

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**regulated boiler and pressure vessel as set forth in rules adopted by the rules board under IC 4-22-2.**

SECTION 17. IC 22-15-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. Sections 2 through 3 of this chapter do not apply to any of the following: **regulated boiler or pressure vessel exempted by a rule adopted by the rules board under IC 4-22-2.**

(1) Any regulated boiler or pressure vessel located on a farm and used solely for agricultural purposes;

(2) Any steam boiler or water heating boiler:

(A) located in an owner occupied residence; a residential structure with fewer than seven (7) apartments; or a place other than a place of public assembly;

(B) operated for heating purposes at a pressure not exceeding fifteen (15) pounds per square inch gauge; if qualifying as a steam boiler; and operated at a pressure not exceeding thirty (30) pounds per square inch gauge; if qualifying as a water heating boiler; and

(C) having a gross output rating not exceeding two hundred fifteen thousand (215,000) British Thermal Units per hour; if not located in a place of public assembly;

(3) Any pressure vessel:

(A) containing only water under pressure for domestic supply purposes; including one containing air; if the compressed air serves only as a cushion or as part of an airlift pumping system; and

(B) located in an owner occupied residence or a residential structure with less than seven (7) apartments.

(4) Any pressure vessel used as an integral part of an electrical circuit breaker.

SECTION 18. IC 22-15-6-2, AS AMENDED BY P.L.119-2002, SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) The office shall conduct a program of periodic inspections of regulated boilers and pressure vessels.

(b) The office or a boiler and pressure vessel inspector acting under section 4 of this chapter shall issue a regulated boiler and pressure vessel operating permit to an applicant who qualifies under this section.

(c) Except as provided in subsection (b), a permit issued under this section expires one (1) year after it is issued. The permit terminates if it was issued by an insurance company acting under section 4 of this chapter and the applicant ceases to insure the boiler or pressure vessel covered by the permit against loss by explosion with an

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insurance company authorized to do business in Indiana.

~~(c)~~ **(d)** To qualify for a permit **or to renew a permit** under this section, an applicant must **do the following**:

- (1) Demonstrate through an inspection that the regulated boiler or pressure vessel covered by the application complies with the rules adopted by the rules board. ~~and~~
- (2) Pay the fee set under IC 22-12-6-6(a)(8).

**(e) After June 30, 2004, an inspection under subsection (d)(2) shall be conducted as follows:**

- (1) An inspection for an initial permit shall be conducted by:**
  - (A) the office; or**
  - (B) an owner or user inspection agency.**
- (2) An inspection for a renewal permit shall be conducted by one (1) of the following:**
  - (A) An insurance company inspection agency, if the vessel is insured under a boiler and pressure vessel insurance policy and the renewal inspection is not conducted by an owner or user inspection agency.**
  - (B) An owner or user inspection agency.**
  - (C) The office, if the owner or user of a vessel is not licensed as an owner or user inspection agency and the vessel is not insured under a boiler and pressure vessel insurance policy.**

~~(d)~~ **(f)** The rules board may, by rule adopted under IC 4-22-2, specify a period between inspections of more than one (1) year. However, the rules board may not set an inspection period of greater than five (5) years for regulated pressure vessels or steam generating equipment that is an integral part of a continuous processing unit.

~~(e)~~ **The office may inspect a device listed under IC 22-12-1-20(b) if the owner or operator of the device requests that the office make an inspection.**

SECTION 19. IC 22-15-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) As used in this ~~section,~~ **chapter**, "inspection agency" means:

- (1) an insurance company ~~engaged in insuring and inspecting regulated boilers and pressure vessels in Indiana;~~ **inspection agency; or**
  - (2) an owner or user inspection agency; ~~registered~~ **licensed** under section 6 of this chapter.
- (b) A boiler and pressure vessel inspector licensed under section 5 of this chapter and employed by an inspection agency may perform any of the following:

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- (1) An inspection required by section 3 of this chapter.
- (2) The issuance of a permit under section 3 of this chapter.
- (3) The issuance of an appropriate order under IC 22-12-7 when an equipment law has been violated.

(c) The authority of an inspector acting under this chapter is limited to enforcement related to regulated boilers or pressure vessels insured, owned, or operated by the inspection agency employing the inspector.

(d) Unless an annual report is substituted under subsection (e), an inspection agency shall, within thirty (30) days after the completion of an inspection, submit to the office the report required by the rules board. **In addition to any other information required by the rules board, the inspector conducting the inspection shall cite on the report any violation of the equipment law applicable to the regulated boiler or pressure vessel.**

(e) In the case of boilers or pressure vessels inspected by an owner or user inspection agency, an annual report filed on or before such annual date as the rules board may prescribe for each report may be substituted. An annual report of owner or user inspection agency must list, by number and abbreviated description necessary for identification, each boiler and pressure vessel inspected during the covered period, the date of the last inspection of each unit, and for each pressure vessel the approximate date for its next inspection under the rules of the rules board. Each annual report of an owner or user inspection must also contain the certificate of a professional engineer registered under IC 25-31 and having supervision over the inspections reported, swearing or affirming under penalty of perjury that each inspection was conducted in conformity with the equipment laws.

(f) An owner or user inspection agency shall pay the fee set under IC 22-12-6 with a report under subsection (e).

(g) In addition to the reports required by subsections (d) and (e), **an owner, a user, or** an inspection agency shall immediately notify the office when ~~the inspection agency has reason to believe that a violation of an equipment law applicable to regulated boilers or pressure vessels has occurred.~~ **an incident occurs to render a boiler or pressure vessel inoperative.**

(h) An inspection agency, **an owner, or a user** that violates this section is subject to a disciplinary action under IC 22-12-7.

SECTION 20. IC 22-15-6-6, AS AMENDED BY P.L.119-2002, SECTION 31, IS AMENDED TO READ AS FOLLOWS[EFFECTIVE JULY 1, 2003]: Sec. 6. (a) The office shall issue a license to act as an owner or user boiler and pressure vessel inspection agency **to an applicant** who qualifies under this section.

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(b) A license issued under this section expires if the bond required by subsection (c)(3) becomes invalid.

(c) To qualify for a license under this section an applicant must:

- (1) submit the name and address of the applicant;
- (2) submit proof that inspections will be supervised by one (1) or more professional engineers licensed under IC 25-31 and regularly employed by the applicant;
- (3) provide a surety bond issued by a surety qualified to do business in Indiana for ~~five~~ **one hundred** thousand dollars (~~\$5,000~~), (**\$100,000**), made payable to the office and conditioned upon compliance with the equipment laws applicable to inspections and the true accounting for all funds due to the office; and
- (4) pay the fee set under IC 22-12-6-6(a)(9).

(d) **☆ An owner or user boiler and pressure vessel inspection agency** licensee under this section shall maintain with the office the most current name and address of the licensee and the name of the professional engineer supervising the licensee's inspections and notify the office of any changes within thirty (30) days after the change occurs. An inspection agency that violates this subsection is subject to a disciplinary action under IC 22-12-7.

**(e) The rules board may establish standards for the operation of inspection agencies.**

**(f) An inspection agency that violates this section is subject to a disciplinary action under IC 22-12-7.**

SECTION 21. IC 22-15-7-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2.5. (a) The office may not issue a permit under this chapter until the applicant has filed with the office a certificate of insurance indicating that the applicant has liability insurance:

- (1) in effect with an insurer that is authorized to write insurance in Indiana on the operation of regulated amusement devices; and
- (2) **except for an applicant that is subject to the provisions of IC 34-13-3**, that provides coverage to a limit of at least:
  - (A) one million dollars (\$1,000,000) per occurrence and five million dollars (\$5,000,000) in the annual aggregate;
  - (B) five hundred thousand dollars (\$500,000) per occurrence and two million dollars (\$2,000,000) in the annual aggregate if the applicant operates only:
    - (i) a ski lift;
    - (ii) a surface lift or tow; or
    - (iii) both items (i) and (ii); or



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(C) one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) in the annual aggregate if the applicant operates only regulated amusement devices that are designed to be used and are ridden by persons who are not more than forty-two (42) inches in height.

(b) An insurance policy required under this section may include a deductible clause if the clause provides that any settlement made by the insurance company with an injured person or a personal representative must be paid as though the deductible clause did not apply.

(c) An insurance policy required under this section must provide by the policy's original terms or an endorsement that the insurer may not cancel the policy without:

- (1) thirty (30) days written notice; and
- (2) a complete report of the reasons for the cancellation to the office.

(d) An insurance policy required under this section must provide by the policy's original terms or an endorsement that the insurer shall report to the office within twenty-four (24) hours after the insurer pays a claim or reserves any amount to pay an anticipated claim that reduces the liability coverage to a limit of less than one million dollars (\$1,000,000) because of bodily injury or death in an occurrence.

(e) If an insurance policy required under this section:

- (1) is canceled during the policy's term;
- (2) lapses for any reason; or
- (3) has the policy's coverage fall below the required amount;

the permittee shall replace the policy with another policy that complies with this section.

(f) If a permittee fails to file a certificate of insurance for new or replacement insurance, the permittee:

- (1) must cease all operations under the permit immediately; and
- (2) may not conduct further operations until the permittee receives the approval of the office to resume operations after the permittee complies with the requirements of this section.

SECTION 22. IC 22-15-7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) The commission shall adopt rules under IC 4-22-2 to define appropriate training for a person who inspects regulated amusement devices.

(b) The rules required under this section must, at a minimum, provide the following:

- (1) The adoption by reference of: ~~the following ASTM standards:~~
  - (A) ASTM F 698 (1994 edition) ("Specification for Physical Information to be Provided to Amusement Rides and

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Devices");

(B) ASTM F 770 (1993 edition) ("Practice for Operation Procedures for Amusement Rides and Devices");

(C) ASTM F 846 (1992 edition) ("Guide for Testing Performance of Amusement Rides and Devices");

(D) ASTM F 853 (1993 edition) ("Practice for Maintenance Procedures for Amusement Rides and Devices");

(E) ASTM F 893 (1987 edition) ("Guide for Inspection of Amusement Rides and Devices");

(F) ASTM F 1305 (1994 edition) ("Standard Guides for the Classification of Amusement Ride and Device Related Injuries and Illnesses"); **or**

**(G) any subsequent published editions of the ASTM standards described in clauses (A) through (F).**

(2) A requirement that inspectors employed or contracted by the office:

(A) have and maintain at least a Level 1 certification from the National Association of Amusement Ride Safety Officials; and

(B) conduct inspections that conform to the rules of the commission.

(3) A requirement that regulated amusement devices be operated and maintained in accordance with the rules of the commission.

**(4) After July 1, 2005, the commission's chief inspector or supervisor of regulated amusement device inspectors must have and maintain at least:**

**(A) a Level I certification if the chief inspector or supervisor has not more than five (5) years of service as the chief inspector or a supervisor; and**

**(B) a Level II certification if the chief inspector or supervisor has more than five (5) years of service as the chief inspector or a supervisor.**

SECTION 23. IC 22-12-1-20 IS REPEALED [EFFECTIVE JULY 1, 2003].

SECTION 24. P.L.119-2002, SECTION 33, IS REPEALED [EFFECTIVE UPON PASSAGE].

SECTION 25. [EFFECTIVE JULY 1, 2003] **(a) As used in IC 22-12, "regulated boiler or pressure vessel" refers to any part of a boiler or pressure vessel not described in subsection (b).**

**(b) The term does not include any of the following:**

**(1) Water heaters commonly known as domestic water heaters having a size and heat input that does not exceed that specified by the rules board.**



- (2) Pressure vessels other than nuclear vessels operated entirely full of water or other liquid that the rules board specifically finds to be not materially more hazardous than water, if the temperature of the vessel's contents does not exceed one hundred eighty (180) degrees Fahrenheit.
- (3) Boilers and pressure vessels under federal regulation.
- (4) Pressure vessels meeting the requirements of the Interstate Commerce Commission for shipment of liquids or gases under pressure.
- (5) Air tanks located on vehicles operating under the rules of other state authorities and that are also used for carrying passengers or freight.
- (6) Air tanks installed on the right-of-way of railroads and used directly in the operation of trains.
- (7) Pressure vessels that were installed before July 1, 1971, and that have a volume of:
  - (A) fifteen (15) cubic feet or less if located in a place other than a place of public assembly; and
  - (B) five (5) cubic feet or less if located in a place of public assembly.
- (8) Pressure vessels, other than nuclear vessels that were installed after June 30, 1971, and that have a volume of:
  - (A) fifteen (15) cubic feet or less if adequately protected by pressure relieving devices set to function at three hundred (300) pounds per square inch or less and located in a place other than a place of public assembly;
  - (B) five (5) cubic feet or less if adequately protected by pressure relieving devices set to function at two hundred fifty (250) pounds per square inch or less and located in a place of public assembly; or
  - (C) one and one-half (1 1/2) cubic feet or less regardless of pressure or location, unless otherwise covered by IC 22-12.
- (9) Pressure vessels, other than nuclear vessels protected by adequate pressure relieving devices, set to function at not over fifteen (15) pounds per square inch gauge.
- (10) Pressure vessels containing liquefied petroleum gases and regulated by the commission.
- (11) Surgical sterilizers, coffee urns, and steam jacketed food cookers that do not exceed size limits specified by the rules board.
- (12) Commercial toy boilers and miniature model boilers constructed as a hobby that do not exceed a size specified by

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(13) Pressure vessels containing anhydrous ammonia, used in transportation, distribution, or use storage of the product as a liquid fertilizer, and for which a general scheme of construction, installation, and safety requirements has been adopted by statute or rule of another state agency. This exemption does not apply to vessels in refineries or in manufacturing or processing plants.

(14) Nuclear vessels for the collection and disposal of nuclear waste from a nuclear energy system that are not subject to pressures greater than would prevail if they were vented to the atmosphere.

(15) Standard and miniature traction engine boilers and other boilers used solely for exhibition purposes.

(16) A locomotive boiler used only on a railway that is used as a tourist attraction.

(c) This SECTION expires upon the earlier of the following dates:

(1) The date the boiler and pressure vessel rules board adopts rules creating a definition of "regulated boiler or pressure vessel".

(2) January 1, 2005.

SECTION 26. [EFFECTIVE JULY 1, 2003] (a) Notwithstanding IC 22-15-6, IC 22-15-6-2 through IC 22-15-6-3 do not apply to any of the following:

(1) Any regulated boiler or pressure vessel located on a farm and used solely for agricultural purposes.

(2) Any steam boiler or water heating boiler:

(A) located in an owner occupied residence, a residential structure with fewer than seven (7) apartments, or a place other than a place of public assembly;

(B) operated for heating purposes at a pressure not exceeding fifteen (15) pounds per square inch gauge, if qualifying as a steam boiler, and operated at a pressure not exceeding thirty (30) pounds per square inch gauge, if qualifying as a water heating boiler; and

(C) having a gross output rating not exceeding two hundred fifteen thousand (215,000) British Thermal Units per hour, if not located in a place of public assembly.

(3) Any pressure vessel:

(A) containing only water under pressure for domestic supply purposes, including one containing air, if the

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compressed air serves only as a cushion or as part of an airlift pumping system; and

(B) located in an owner occupied residence or a residential structure with less than seven (7) apartments.

(4) Any pressure vessel used as an integral part of an electrical circuit breaker.

(b) This SECTION expires on the earlier of the following dates:

(1) The date the boiler and pressure rules board adopts rules under IC 4-22-2 exempting some regulated boilers and pressure vessels from IC 22-15-6-2 and IC 22-15-6-3.

(2) January 1, 2005.

SECTION 27. An emergency is declared for this act.

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Speaker of the House of Representatives

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President of the Senate

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President Pro Tempore

Approved: \_\_\_\_\_

\_\_\_\_\_  
Governor of the State of Indiana

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